

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

HAROLD BRUCE DAVIS, JR.)
)
Plaintiff,)
)
v.) Case No. 3:04-0980
) Judge Echols
)
TENNESSEE DEPARTMENT OF)
LABOR AND WORKFORCE)
DEVELOPMENT)
)
Defendant.)

ORDER

Pending before the Court are the Report and Recommendation of the Magistrate Judge (Docket Entry No. 32) and Plaintiff's Objections (Docket Entry No. 34) and Defendant's Objections (Docket Entry No. 33) thereto.

For the reasons set forth in the Memorandum entered contemporaneously herewith, the Court rules as follows:

(1) the Report and Recommendation of the Magistrate Judge (Docket Entry No. 32) is hereby ADOPTED IN PART AND REJECTED IN PART. The Report and Recommendation is REJECTED only with regard to whether Plaintiff applied for the position of Assistant Director of UI Technical Services, and in all other respects the Report and Recommendation is ADOPTED.

(2) Plaintiff's Objections (Docket Entry No. 34) are hereby SUSTAINED IN PART AND OVERRULED IN PART. Plaintiff's Objection is SUSTAINED with regard to whether

Plaintiff applied for the position of Assistant Director of UI Technical Services, and in all other respects Plaintiff's Objections are OVERRULED.

(3) Defendant's Objections (Docket Entry No. 33) are hereby OVERRULED.

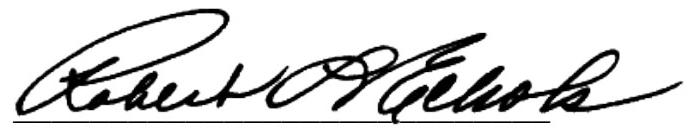
(4) Defendant's Motion for Summary Judgment (Docket Entry No. 9) is hereby GRANTED IN PART AND DENIED IN PART.

(a) The Motion is GRANTED with respect to Plaintiff's claims for retaliation, denial of a promotion to the position of Employment Security Division Assistant Director 1, and disparate treatment based on allegations of differing job duties and differing supervisory authority. All such claims are hereby DISMISSED WITH PREJUDICE.

(b) The Motion is DENIED as to Plaintiff's claims for denial of promotions to the positions of Director of Field Operations, Administrator for Employment and Workforce Development, Director of Benefit Operations and UI Technical Support, Director of UI Integrity, and Unemployment Hearing Officer and for disparate treatment based on allegations of receiving a lesser salary and being the only employee in his position who was supervised by a peer employee.

Discovery is complete but no trial date has been set. (See Docket Entry Nos. 4, 8). This case is hereby returned to the Magistrate Judge to immediately schedule a case management conference for the purpose of setting a non-jury trial date, **to commence no later than November 30, 2006**, and a final pretrial conference date. The Magistrate Judge is directed to coordinate the setting of a trial date with Judge Echols' Courtroom Deputy.

IT IS SO ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE